

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DOUGLAS J. HORN and  
CINDY HARP-HORN,

Plaintiffs,

Case # 15-CV-701-FPG

v.

ORDER TO SHOW CAUSE

MEDICAL MARIJUANA, INC., at el.,

Defendants.

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This action was commenced on August 6, 2015, when Plaintiffs Douglas J. Horn and Cindy Harp-Horn, represented by counsel, filed a Complaint against Defendants Medical Marijuana, Inc., Dixie Elixirs and Edibles, Red Dice Holdings, LLC, and Dixie Botanicals. ECF No. 1. At the time the Complaint was filed, the Plaintiffs prepared and provided to the Clerk of Court Summons for Defendants Medical Marijuana, Inc., Dixie Elixirs and Edibles, and Red Dice Holdings, LLC (ECF Nos. 2, 3, 4), but did not prepare a Summons for the remaining Defendant, Dixie Botanicals. On August 11, 2015, the Clerk of Court issued the requested Summons for Defendants Medical Marijuana, Inc., Dixie Elixirs and Edibles, and Red Dice Holdings, LLC (ECF No. 7), and also notified the Plaintiff that a Summons was not submitted for Defendant Dixie Botanicals. Despite that notification, the Plaintiff has taken no further action regarding Dixie Botanicals.

At the time this Complaint was filed, Federal Rule of Civil Procedure 4(m) provided that “[i]f a defendant is not served within 120<sup>1</sup> days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”

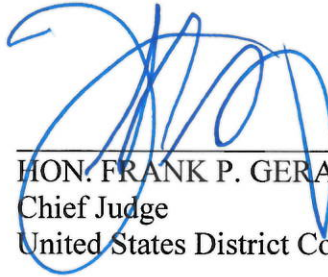
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<sup>1</sup> By recent amendment, the time period has been reduced to 90 days.

As the 120 days to effect service has elapsed, Plaintiff is hereby Ordered to Show Cause, in writing and before March 4, 2016, why this case should not be dismissed as against Defendant Dixie Botanicals under Fed. R. Civ. P. 4(m) for failure to effect service within 120 days. Failure to comply with this Order will result in the dismissal of this action as against Dixie Botanicals.

IT IS SO ORDERED.

DATED:       Rochester, New York  
              February 25, 2016



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HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court